

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the San Francisco Bay Area Rapid Transit for an Order authorizing construction of an elevated structure crossing above the BART tracks and the tracks of the Union Pacific Oakland Subdivision and Niles Subdivision.

Application 03-12-017
(Filed December 9, 2003)

O P I N I O N**Summary**

This decision grants the request of the San Francisco Bay Area Rapid Transit (BART) to construct the Oakland Airport Connector elevated Automated Guideway Transit (AGT) system above the tracks of BART and the Union Pacific Railroad (UPRR) Oakland and Niles Subdivision lines. The structure will extend from the BART Oakland Coliseum station to the Oakland International Airport.

The AGT guideway and station platform will cross above the UPRR Oakland Subdivision tracks at milepost 12.10, the UPRR Niles Subdivision tracks at milepost 12.08 and BART at milepost 5.50. The new crossings will be designated as CPUC Crossing Nos. 001D-12.10-T, 004-12.08-T, and 080A-5.50-T, respectively.

Discussion

BART proposes to construct an AGT system in Oakland, part of which is an elevated guideway structure and station platform that passes over the tracks of the UPRR Niles and Oakland Subdivisions and BART. The structure will be used as an exclusive right-of-way for the purpose of operating either

rubber tired, monorail, or magnetic levitation AGT vehicles. The elevated structure and station platform elements are part of the entire Oakland Airport Connector that will provide a transportation link between the BART Oakland Coliseum station and Oakland International Airport. This is a unique system and for the purposes of this decision it will be classified as a rail-over-rail project.

All construction within the UPRR and BART right-of-ways shall be coordinated with the specific railroad before work proceeds.

BART is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resource Code Section 21000 et seq. On March 28, 2002, the BART Board of Directors certified the Final Environmental Impact Report/ Final Environmental Impact Statement (FEIR/FEIS) for the entire project. The overall project was found to have significant effect on the environment and mitigation measures were made a condition for approval. Best management practices will be used to reduce noise during construction. However, there were no other impacts found that related directly to these grade separated rail crossings.

The Commission is a responsible agency for this project under CEQA. We have reviewed the lead agency's FEIR and find that it is adequate for our decision-making purposes. Safety, noise and transportation are within the scope of the Commission's permitting process.

The Commission's Consumer Protection and Safety Division-Rail Crossings Engineering staff (RCES) inspected the site and examined the need for and safety of the proposed crossings. RCES recommends that the authority to construct the crossings be granted.

Application 03-12-017 meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 41, which relates to the construction of a railroad across a railroad.

In Resolution ALJ 176-3125 dated December 18, 2003, and published in the Commission Daily Calendar on December 18, 2003, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. Given these developments it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3125.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on December 12, 2003. No protests have been filed.
2. BART requests authority, under Public Utilities Code Sections 1201-1205, to construct an elevated guideway structure crossing above the BART tracks and the tracks of the UPRR Oakland Subdivision and Niles Subdivision, identified as CPUC Crossing Nos. 080A-5.50-T, 001D-12.10-T, and 004-12.08-T.
3. Public convenience and necessity require the construction of the Oakland Airport Connector in Alameda County.
4. BART is the lead agency for this project under CEQA, as amended.

5. On March 28, 2002, the BART Board of Directors certified the FEIR/FEIS for the entire project. Mitigation measures were a condition of project approval.

6. The Commission is a responsible agency for this project, has reviewed the BART's environmental documents and finds them adequate for our decision-making purposes.

7. Safety, transportation and noise are within the scope of the Commission's permitting process.

8. The Commission finds the lead agency adopted reasonable mitigation measures to eliminate or substantially lessen the impacts.

Conclusions of Law

1. The application is uncontested and a public hearing is not necessary.
2. The application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. San Francisco Bay Area Rapid Transit (BART) is authorized to construct the Oakland Airport Connector elevated Automated Guideway Transit system above the tracks of BART and the Union Pacific Railroad (UPRR) Oakland and Niles Subdivision lines at the location as shown on the plans attached to the application, identified as CPUC Crossing Nos. 080A-5.50-T, 001D-12.10-T, and 004-12.08-T.

2. The proposed elevated structure will extend from the BART Oakland Coliseum station to the Oakland International Airport.

3. All construction to be done within the UPRR and BART right-of-ways shall be coordinated with the specific railroad before work proceeds.

4. Construction and maintenance costs shall be borne by BART.

5. Within 30 days after completion of this project, UPRR and BART shall notify the Commission's Consumer Protection and Safety Division-Rail Crossings Engineering Section in writing by submitting a completed Standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations) that the authorized work is completed.

6. This authorization shall expire if not exercised within three years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

7. This application is granted as set forth above.

8. Application 03-12-017 is closed.

This order becomes effective 30 days from today.

Dated _____, at San Francisco, California.